



City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, August 9, 2004, at 7:00 p.m.

1. Call to Order/Roll Call

The following were present:

Mayor Billy Bain
Vice Mayor Peter Pacheco
Councilman Jim Caudle
Councilman Eric Elza
Councilman Rob Youngs

Also Present:

City Manager James R. Borgmann
Assistant City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
Chief of Police H. Randall Dilling
Finance Director William Alonso
City Planner Richard E. Ventura
Public Services Director Denise Yoezle
Recreation Director Patricia Perry
City Clerk Magalí Valls

2. Invocation: Councilman Youngs offered the invocation.

Salute to the Flag: The audience participated.

3. Awards & Presentations:

3A) Education Partner of the Month – August 2004 – Treats Café

Education Advisory Board Chair Mindy McNichols presented the Education Partner of the Month award to Don Miller of Treats Café, who was nominated by Miami Springs Elementary School. She explained that Treats Café provides free lunch to students who earn the achievement of Principal's Honor Roll, and they acknowledge students who are successful in the accelerated reader program.

Mr. Miller thanked the community for their support for the last twenty years, and said that it is a pleasure to be able to give something back to the children in the community.

3B) Certificate of Sincere Appreciation to Alejandrino Sanchez in Recognition of 35 Years of Service to the City in the Public Works Department

Public Services Director Denise Yoezle explained that Mr. Alejandrino Sanchez was unable to be present. His Certificate of Sincere Appreciation together with a silver bowl in recognition of 35 years of dedicated service to the City will be sent to him.

3C) Certificate of Sincere Appreciation to Thomas A. Cardini in Recognition of 23 Years of Service to the City in the Public Works Department

Public Services Director Denise Yoezle stated that Thomas A. Cardini has 23 years of service to the Public Works Department as the Building Maintenance Technician, who has maintained all the municipal buildings and handled special projects in the City.

Mayor Bain and Ms. Yoezle presented a Certificate of Sincere Appreciation to Mr. Cardini in recognition of his many years of dedicated service to the City.

City Manager Borgmann also presented Mr. Cardini with a silver bowl.

3D) Certificate of Sincere Appreciation to William A. Wilson in Recognition of 21 Years of Service to the City in the Public Works Department

Public Services Director Denise Yoezle stated that William A. Wilson has served the City for 21 years, beginning in the stock room, and he taught himself to become the archival brain of the City's water, sewer and storm water system. She thanked Mr. Wilson for his years of service as the Operations Supervisor who dispatched and organized the work crews.

Mayor Bain and Ms. Yoezle presented a Certificate of Sincere Appreciation to Mr. Wilson in recognition of his dedicated service to the City's Public Works Department.

City Manager Borgmann also presented Mr. Wilson with a silver bowl.

3E) Officer of the Month Award – Officer Ramon Tamargo – May 2004

Chief of Police H. Randall Dilling stated that Officer Tamargo and Office Buckner were both nominated to receive the Officer of the Month Award by their supervisors for two different incidents that they handled in the same month. He said that he is very proud to approve the nominations and that he would present the awards after the Sergeants come forward to summarize the nominations.

Sergeant John Mulla stated that on June 3, 2004, at 2:30 a.m. the night desk worker was robbed at gunpoint at a hotel on Fairway Drive. Officer Tamargo was dispatched as the primary unit, and a training unit was dispatched as a backup. The subject fled the area on foot, and Officer Tamargo obtained a description of the subject, spoke with security guards, and checked with three other hotels in the area that had seen the subject. He found that the subject was staying at one of the hotels, and had fled in a gold Honda that traveled southbound on East Drive, and turned left onto N.W. 36th Street eastbound. The vehicle was stopped at Sheridan Drive at N. W. 36th Street, and the subject of the robbery was arrested without incident.

Sergeant Mulla recognized Officer Tamargo for his remarkable initiative, which helped to detain a violent felon.

Chief Dilling presented the award to Officer Tamargo and invited him to introduce his friends and family members who were present.

Officer Tamargo introduced his parents, sister, wife, son, and sister-in-law. He thanked Sergeant Mulla and the other officers that were on duty that night because the arrest was a team effort.

3F) Officer of the Month Award – Officer Raymond Buckner – June 2004

Sergeant Steve Carlisle stated that on June 9, 2004 at approximately 9:00 a.m. members of the Miami Springs Police Department were dispatched to an occupied house fire at 350 Morningside Drive. Upon arrival, it was determined that all occupants of the house had safely been evacuated; however the roof of the house was fully engulfed in flames. Officer Buckner exited his vehicle and responded to the back yard of the residence where he found a civilian witness who was attempting to extinguish the flames with a garden hose. Recognizing the potential dangerous situation, Officer Buckner ordered the civilian out of the area for his own safety, and then grabbed the hose and climbed to the top of a portable hot tub and began spraying water on the fire. At this time, both pieces of fire equipment assigned to Fire Station 35 were handling other emergencies, and fire equipment was dispatched from other fire stations that were a considerable distance away. Officer Buckner continued to spray water on the fire until the fire vehicles arrived, and almost completely extinguished the fire.

Sergeant Carlisle said that Officer Buckner's actions prevented the fire from spreading and from doing considerable damage to the roof, which helped to minimize the damage to the victim's home and prevented a potentially hazardous situation.

Chief Dilling presented the Officer of the Month award to Officer Buckner.

Officer Buckner introduced his wife, son and daughters who were present.

3G) Proclamation – Tom Curtis “The Battery Man” Day

Mayor Bain proclaimed August 9, 2004, to be Tom Curtis “The Battery Man” Day in Miami Springs in recognition of his contributions to the community, and for being the “Grand Marshall” during the Fourth of July Parade.

3H) Status Report on Annexation

City Manager Borgmann reported that he contacted County Commissioner Rebeca Sosa’s office regarding the level of support that they will give the City in conducting an annexation survey. He learned that they have done this in the past for the East Kendall UMSA area, and that they would assist Miami Springs. They have asked for Council to pass a resolution stating the exact information that the City would want to obtain from the residents, including the different questions that would appear on the survey.

City Manager Borgmann asked for Council’s comments related to the draft of the survey flyer that the City is proposing to send to the residents. The survey packet would be mailed to all the registered voters in the City, and mailed back to the County in an envelope that is provided in the packet. He suggested that Council should be considering thoughts and ideas for the next meeting, and the resolution could be drafted before that time.

Mr. Borgmann stated that the annexation applications were due to be submitted to the County by July 30, 2004, and Miami Springs met this deadline. He contacted the County to make sure the application was complete, and was told that everything is in order.

Mr. Borgmann informed Council that he sent a letter to the neighboring cities asking for their support, which is required by the County ordinance, and obviously they have sent a letter to Miami Springs, but since every city is going for the same land, no one is giving a letter of support. There is an application fee of \$15,693.70, based on \$5.13 per acre that is not contiguous to another city, but the City is negotiating with the County to waive the fee at this time, but will pay it if absolutely necessary.

4. Open Forum:

Golf and Country Club

Michael Gavila of 684 Morningside Drive urged the residents to join him in supporting the Miami Springs Golf and Country Club.

Golf and Country Club

Noel Pereda of 111 Chippewa Street read a letter that he wrote to the Mayor and Council dated July 29, 2004, stating his opposition to Council's decision to terminate the Food and Beverage Contract with the Rhodes Brothers. He said that he respects this decision and the laws set forth by the elected officials, and for this reason, he cannot understand why the City Manager was exempt from following the rules, and proceeded to book his school's reunion at the Golf Course. Mr. Pereda said that Council gave direction to honor the banquets only if they were determined to be profitable, and that all others would be cancelled.

Mr. Pereda said that City Manager Borgmann did not have a signed contract or deposit in place with the Rhodes Brothers. He added that the reunion took place on the same day as another function, there was no banquet room available, and the event took place in the Greenery Room, which is the area where Karaoke is held every Friday. Mr. Pereda felt that this was an inconvenience to the repeat customers that attend Karaoke, and that not much planning was put into this decision.

Mr. Pereda questioned why so much effort was made by the City Manager and his Assistant to push for Plan "B+", which would have allowed banquets to be held during Mr. Bradley's temporary takeover of all operations. He said that Mr. Borgmann took advantage of Council's vacation to make his change; therefore making it hard for anyone to question his actions in a public forum. He felt that the City Manager's actions disrespected the citizens and elected officials, and that the Rhodes Brothers were removed because of personally driven motives. He asked Council to review what took place and to act accordingly.

Mr. Pereda stated that the party is over, it was a profitable event, but the fact remains that the City Manager circumvented the rules to fit his situation. He wondered if the timing for making the decision to proceed with the event was based on coincidence or on the fact that he knew that Council would not meet until after the event date. He felt that the City Manager should have followed the rules that were set by the City Council.

5. Approval of Council Minutes:

5A) 06/16/2004 – Special Meeting

Minutes of the June 16, 2004 Special Meeting were approved as written.

Vice Mayor Pacheco moved to approve and Councilman Youngs seconded the motion. On roll call vote, the motion carried 4-0 with Councilman Elza abstaining.

5B) 06/28/2004 – Regular Meeting

Minutes of the June 28, 2004 Regular Meeting were approved as written.

Vice Mayor Pacheco moved to approve and Councilman Youngs seconded the motion. On roll call vote the motion carried 4-0 with Councilman Elza abstaining.

5C) 06/30/2004 – Special Meeting

Minutes of the June 30, 2004 Special Meeting were approved as written.

Vice Mayor Pacheco moved to approve and Councilman Youngs seconded the motion. On roll call vote the motion carried 4-0, with Councilman Elza abstaining.

5D) 07/29/2004 – Special Meeting

Minutes of the July 29, 2004 Special Meeting were approved as written.

Vice Mayor Pacheco moved to approve and Councilman Youngs seconded the motion. On roll call vote the motion carried 3-0, with Councilman Caudle and Councilman Elza abstaining.

6. Reports from Boards & Commissions:

6A) 06/08/2004 – Recreation Commission – Minutes

Minutes of the June 8, 2004 Recreation Commission meeting were received for information.

Vice Mayor Pacheco stated that a recommendation was made that the City contact Miami-Dade County Public Schools regarding the installation of lights in the high school field so that it could be used as a secondary field.

6B) 06/10/2004 – Board of Parks and Parkways – Minutes

Minutes of the June 10, 2004 Board of Parks and Parkways meeting were received for information.

Vice Mayor Pacheco stated that the Board of Parks and Parkways members were unhappy with the decision made by the Code Enforcement Board to reduce fines. He asked if anything was done to educate the Board members.

City Manager Borgmann responded that City Attorney Jan K. Seiden addressed the Code Enforcement Board at their last regular meeting regarding the reduction of fines.

City Attorney Seiden stated that a letter was sent to the Code Enforcement Board explaining that while they act as a quasi-judicial board, and they have the authority to make decisions in reducing fines in certain cases, they should not act contrary to established policy or law of the City.

Vice Mayor Pacheco asked the City Manager, on behalf of the Board of Parks and Parkways, to see what could be done with the dead Australian Pines between the Fair Haven Center and Grace Lutheran Church.

6C) 06/29/2004 – Ecology Board – Minutes

Minutes of the June 29, 2004 Ecology Board meeting were received for information without comment.

6D) 06/23/2004 – Education Advisory Board – Minutes

Minutes of the June 23, 2004 Education Advisory Board meeting were received for information.

Vice Mayor Pacheco stated that the Education Advisory Board made a recommendation for the City to send a thank you letter to the County Officials that supported the construction of State School “WWW”.

City Manager Borgmann offered to follow up and send a letter.

Vice Mayor Pacheco asked the City Manager to contact the new School Superintendent about the possibility of scheduling a Town Hall Meeting, as recommended by the Education Advisory Board.

6E) 06/30/2004 – Board of Appeals – Cancellation Notice

Cancellation Notice of the June 30, 2004 Board of Appeals meeting was received for information without comment.

6F) 07/20/2004 – Ecology Board – Special Meeting – Cancellation Notice

Cancellation Notice of the July 20, 2004 Ecology Board Special meeting was received for information without comment.

6G) 08/18/2004 – Education Advisory Board – Rescheduling Notice

Rescheduling Notice of the August 18, 2004 Education Advisory Board meeting was received for information without comment.

6H) 08/02/2004 – Zoning and Planning Board – Cancellation Notice

Cancellation Notice of the August 2, 2004 Zoning and Planning Board meeting was received for information without comment.

6I) 08/02/2004 – Board of Adjustment – Approval of Actions Taken at their Meeting of August 2, 2004

Actions taken by the Board of Adjustment at their meeting of August 2, 2004 were approved, subject to the ten-day appeal period.

Councilman Youngs moved to approve, and Vice Mayor Pacheco seconded the motion, which carried unanimously on roll call vote.

7. Public Hearings:

7A) Ordinance – Second Reading – An Ordinance of the City Council of the City of Miami Springs Creating and Enacting New Code of Ordinance Section 150-047, Front Yard Setback Usage Exceptions; Providing Intent; Establishing Requirements for Applicability; Delineating Limitations on Applicability; Specifying the Front Yard Setback Exceptions; Providing Exception Limitations; Repealing all Ordinances or Parts of Ordinances in Conflict; Directions to Codifiers; Effective Date (First Reading: 6/28/2004 – Advertised: 7/29/2004)

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden stated that there were a couple of Board of Adjustment cases where harsh decisions were made for old homes on small lots, and the footprint of the building was set back leaving very large front yards. He explained that the way the City Code is written, it protects the front yard setbacks, and he tried to draft an ordinance that is designed only for those particular types of lots.

Attorney Seiden read Section “B” of the Ordinance, which outlines the requirements for applicability, and Section “C” that provides for limitations on applicability. He explained that any homesite, and the existing residential structure thereon, which meets the requirements for applicability set forth in Section “B”, and the limitations set forth in Section “C”, shall be permitted to construct an approved attached addition to the existing structure in the existing and established front yard setback of the homesite so long as such construction is otherwise in compliance with the

requirements of the Code of Ordinances and establishes a new front yard setback of no less than thirty feet.

Attorney Seiden stated that any ordinance that is contained in the Zoning Code is subject to variance, and Section E (1) provides that if this section is utilized, that it must be utilized without applying for a variance. Section E (2) states that any property owner adjacent to any homesite property that utilizes the provisions of this exception Ordinance shall not be permitted to consider the vertical line of the new addition as the new front yard setback of the subject property for the interpretation or implementation of any other Code of Ordinances provision.

Attorney Seiden explained that City Planner Richard Ventura conducted a survey and found that there are approximately 20 properties that this ordinance would apply to, and there are three cases that are pending before the Board of Adjustment waiting for adoption of the ordinance.

Mayor Bain opened the public hearing to those persons wishing to speak. There were no speakers, and the public hearing was closed.

Councilman Elza stated that he is opposed to this ordinance because houses would encroach into the front yard setback out to the street, while an adjacent home might be set back seventy feet. He surveyed one area where all the houses are 60 to 70 feet from the street, and felt that it does not make sense to change the setbacks for one home on the block.

To answer Councilman Elza's question, City Planner Richard Ventura stated that there are only 20-25 lots that would be affected by the ordinance.

Councilman Elza said that he would like to see an aerial photograph of the homes that would be affected by the ordinance.

Attorney Seiden clarified that a list of the affected properties was provided to Council.

Councilman Youngs stated that Council is trying to reach a compromise that allows homeowners with undersized lots and unusual setbacks, to fully utilize the homes. He said that many residents would like to make improvements, and the idea of the ordinance is to set a standard and to keep the front yard setback of thirty feet. He suggested that Council could adjust the number if the change from 70 feet to 30 feet is too dramatic.

Councilman Elza felt that if Council were to approve this ordinance, that it could change the entire integrity of the community, and it might not be the solution to the problem.

Vice Mayor Pacheco agreed that Councilman Elza's point was well taken. He also would have liked to receive more back up documentation in order to get a better picture of the effect of the ordinance.

Councilman Caudle moved to table the item pending more information. Vice Mayor Pacheco

seconded the motion.

Councilman Elza said that he would like an aerial view of the affected properties in the entire City. He emphasized that it is not right to bend the law for one person and penalize two other people.

Councilman Caudle stated that he would like a list of addresses so that he could look at the properties.

On roll call vote, the motion carried unanimously.

Councilman Youngs requested a list of the Board of Adjustment cases and the people that have inquired about the proposed ordinance.

City Manager Borgmann referred to the advisory board recommendations contained in the minutes, as mentioned by Vice Mayor Pacheco. He clarified that the Administration does not take action on the recommendations until they are heard by Council. Normally, the Council Liaison brings the items to the table, and Council directs the Administration to take action.

8. Consent Agenda:

8A) Approval of the City Attorney's Invoice for July 2004 in the Amount of \$9,130.00

There was no discussion regarding this item.

Vice Mayor Pacheco moved to approve and Councilman Youngs seconded the motion. On roll call vote, the motion carried 4-0. (Councilman Caudle was absent at roll call).

9. Old Business:

9A) Appointment to the Code Review Board by Councilman Youngs (Group IV) for a 3-year Term Ending on April 30, 2007 (Deferred: 6/28/2004)

Councilman Youngs (Group IV) **deferred** his appointment to the Code Review Board.

9B) Appointment to the Ecology Board by Vice Mayor Pacheco (Group III) for a 3-year Term Ending on April 30, 2007 (Deferred: 6/28/2004)

Vice Mayor Pacheco (Group III) **deferred** his appointment to the Ecology Board.

9C) Appointment to the Ecology Board by Councilman Youngs (Group IV) for a 3-year Term Ending on April 30, 2007 (Deferred: 6/28/2004)

Councilman Youngs (Group IV) **appointed** Donna Dawson to the Ecology Board for a 3-year term ending on April 30, 2007.

9D) Appointment to the Recreation Commission by Councilman Youngs for a 3-year Term Ending on April 30, 2007 (Deferred: 6/28/2004)

Councilman Youngs (Group IV) **deferred** his appointment to the Recreation Commission.

9E) Appointment to the Code Enforcement Board by Councilman Youngs (Group IV) to Fill an Unexpired Term Ending on September 30, 2004 Created by the Resignation of Felix Perez (Deferred: 6/28/2004)

Councilman Youngs (Group IV) **appointed** Xavier M. Garcia to Code Enforcement Board to fill an unexpired term ending on September 30, 2004, created by absence.

9F) Appointment to the Civil Service Board by Vice Mayor Pacheco (Group III) for a Full Term Ending on June 30, 2007 (Deferred: 6/28/2004)

Vice Mayor Pacheco (Group III) **deferred** his appointment to the Civil Service Board.

9G) Council Appointment to the Police and Firefighters' Retirement System for an Unexpired Term Ending on September 30, 2004 Created by the Resignation of Paul M. Stokes (Deferred: 6/28/2004)

Council **deferred** the appointment to the Police and Firefighters' Retirement System.

Discussion ensued regarding the appointment of and the importance of the position.

9H) Appointment of Official Voting Delegate to the Florida League of Cities Annual Conference to be Held at the Westin Diplomat Resort & Spa on August 19-21, 2004, Confirmation of Attendance (Deferred: 7/29/2004)

City Manager Borgmann stated that this year's Florida League of Cities Annual Conference would be held at the Westin Diplomat Resort & Spa on August 19-21, 2004. He said that the voting delegate would receive a packet of information to explain the duties.

Discussion ensued regarding which Council members would be available to attend the conference.

Councilman Youngs moved to appoint Vice Mayor Pacheco as the official voting delegate to the Florida League of Cities Annual Conference. Councilman Caudle seconded the motion, which carried unanimously on roll call vote.

9I) Consideration of Request from the Children's Golf Foundation of Miami Springs

City Manager Borgmann stated that he received a request from the Children's Golf Foundation to be placed on the agenda to discuss the possibility of using a portion of land located on the Golf Course, to create a 3-hole golf course and a building geared toward physically challenged children.

Mr. Borgmann referred to the minutes from a previous meeting when Council directed the City Attorney to begin drafting some type of use agreement for the 3-hole course, and for the organization to come back when they acquired their 501-c-3 status from the IRS. There was also a plan to locate the course next to the pond beyond the driving range, and after discussions with the residents on Hunting Lodge Drive, they agreed to move the course to the area east of the 11th tee where the Family Fair was held.

Mr. Borgmann said that the City approached the County regarding the funding for a new recreation facility behind the Country Club, and since that request was denied, it would free up that area. In the interim, the Children's Golf Foundation has asked for permission to use the Driving Range and pitching green for about 95 times during the school year, or three times per week, between the hours of 9:30 a.m. to 12:00 noon, according to Mr. Borgmann. He said that any group could pay for the bucket of balls, and he asked Mr. Bradley to come up with a plan to rent the balls and allow the use of the range and greens for approximately one hour. Since they are school functions, they will bring their own lunch, and they are insured. The school bus would drop off approximately 25 kids, three times a week to participate in this activity.

Tamara Thomas of 261 Deer Run, Chairperson of the Children's Golf Foundation, introduced Dr. Kathleen C. Vergara who is the Chairman of the Superintendent's District Advisory Panel for Exception Student Education.

Dr. Vergara stated that the Panel is made up of parents, agency representatives, and members of the School District that are very knowledgeable about the needs of children with disabilities and special needs. In the spring of last year, Donna Wood-Beney and Dan Bradley made a presentation about the Children's Golf Foundation, and they are very enthusiastic about the project, the children having the opportunity to experience golf, and the collaboration of community and school. She stated that the panel members strongly endorse and recommend the project.

Ms. Thomas introduced the foundation members: Tappy Rosson, Dick McNeil, Karen Williams, Roxana Garciga, Lori Andre, Mindy McNichols, Raul Saenz, and Executive Director Donna Wood-Beney. She explained that Ms. Wood-Beney and the Golf Professionals are the only paid

individuals.

Ms. Thomas reviewed the history of the Children's Golf Foundation. She said that in the fall of 2003, the Sports Channel aired a piece on the special program in West Palm Beach for handicapped children. Dan Bradley contacted the organization to obtain more information, and on October 13th, Mr. Bradley presented the information to the City Council, and asked for permission to explore the possibility of this type of program in Miami Springs.

Ms. Thomas stated that Council directed Mr. Bradley and his management company to pursue this issue and bring additional information at a future meeting. Subsequently, much information was gathered, and they researched sources of funding. The Children's Golf Foundation of Miami Springs was incorporated in November 2003, and in that same month, the citizens were invited to be a part of the Board. In December, a River Cities Gazette article featured "Miami Springs Golf Course Scores for Kids", and because of this positive publicity, Miami Springs High School students were very excited, and they held the first event on January 9th.

Ms. Thomas stated that on January 12, 2004, Dan Bradley provided an update to Council and asked for the drafting of a Use Agreement for the Special Kids Golf Course. Council unanimously passed a motion directing the City Attorney to draft an agreement, which would come back to Council. On March 8th, the City Manager invited the Mayor and Council to meet with the USGA Representative, and on March 17th a meeting was held with the adjacent residents, and some of their ideas were incorporated. The IRS letter confirming the 501-c-3 status was received on March 23, 2004, and the second meeting was held on July 27th with the surrounding residents.

Ms. Thomas said that the Children's Golf Foundation has been running a program to teach golf to handicapped children using the present facilities in Miami Springs. She said that the children are from Miami-Dade County Schools Trainable, Mentally Handicapped classes, and they are covered by Dade County insurance. The average number of students is approximately 24 per session, which varies, and teachers, teacher aides, parents, volunteers, and Golf Pros that are hired for the event provide supervision for the events that run from approximately from 9:30 a.m. to 12:00 noon.

Ms. Thomas explained that the program began in January, in part, to see how much interest there was in this type of program, and to assist the Foundation in completing future grant applications for a three-hole golf course and training reception facility.

Ms. Thomas stated that the 3-hole Golf Course is being presented as a proposal for a land use agreement. The course and training reception facility is referred to as "The Center". Pending the Council's land use commitment, funding for the majority of the construction cost of the training reception center and the 3-hole golf course will be secured.

Ms. Thomas explained that the Batchelor Foundation was contacted for a contribution to the proposed 3-hole golf course and training center, as they are responsible for helping disabled children

throughout Florida through their sponsorship of the Sunny Shores Sea Camp. She said that due to George Batchelor's commitment to helping children, the Foundation wants to help the Children's Golf Foundation realize the dream of the Special Kids Golf Center.

Tappy Rosson stated that the process by which the Children's Golf Foundation used to determine the desired location of the George Batchelor Special Kids Golf Center, and the 3-hole Golf Course was simple and straightforward. He said that because the project has become so confused, it is important to share the process. The original plan was to build the 3-hole Golf Course on the former site of the old Executive Par 3 Golf Course, which was called the "Speed Links" course. Mr. Rosson displayed the design on the overhead projector.

Mr. Rosson said that meetings were held with the adjacent neighbors on Hunting Lodge Drive that were concerned about the golf course project, especially the building, parking, traffic, dust, noise, and school buses. Subsequent to that meeting, the plan was then modified to relieve the residents' concerns by moving the building away from the Golf Course site to the south end of the Driving Range, which they thought would eliminate the major objections, but this was not the case.

Mr. Rosson stated that after several additional board meetings, they arranged another meeting with the Hunting Lodge Drive residents to tell them about the compromise, and that the intention was to go to the City Council with this plan. Again, they said that the building relocation was still in their view, and they objected to the new location around the pond by their homes. Now they are proposing a third location for the building, as well as two possible sites for the golf course.

Mr. Rosson explained that now they are seeking to place the building in an area to the north end of the Driving Range, and this location is still close to the Driving Range, utilities and parking. The building would have proper landscaping and be built in a Pueblo motif, resembling the old historical clubhouse. They asked Golf Course Consultant Larry Weber where there might be additional sites suitable for the amount of space that is needed. Two sites were identified and the first was the original site, and the second was an area behind the Club House, stretching down the pine grove to the elevated nursery green to the left of hole ten, which could be called the Family Fair ground.

Mr. Rosson said that a number of things are unknown about the alternate site, because it had been their belief that the City had earmarked this location for possible future City expansion of recreational facilities, tennis courts or other possible municipal needs. They are not aware of the new site factors, including irrigation costs, and utility locations; however, the Board of the Foundation has been adaptable and responsive to residents' concerns. He said that they would have no objection to the fairground site, as long as it is available, and that they would also be happy with the original site.

President Mindy McNichols stated that last January the City Council endorsed the project, and many attended the first event and saw the joy on the faces of the children. Council directed the City Attorney to draft the land use agreement, and Council requested the 501-c-3 designation, which has been achieved. She said that the Foundation is proposing a simple program that will cost the City

and the taxpayers nothing, and it has generated positive publicity in the local newspaper, The Miami Herald, and golf publications. She added that the City could not buy this kind of marketing for the Golf Course or Miami Springs.

Ms. McNichols said that the program ran twenty-nine sessions from last January through May, which did not generate a single complaint to the City, and the Foundation has met with the Hunting Lodge Drive residents who had legitimate issues, and they have gone to great efforts to address their concerns. She explained that the Foundation does not feel that the project will hurt the property values or the views of the Golf Course.

Ms. McNichols stated that it is a simple 3-hole golf course and a building to serve as a reception area and small office. It is the same project that was proposed last January, and they are not asking to turn the golf course into a hotel/casino, a private school, or low-income housing project as mentioned in the flyers being passed around town. The November Golf Course Charter amendment does not apply to this project. The Children's Golf Foundation is simply a non-profit organization of volunteers trying to do what a lot of people think is a great thing. She mentioned that the project has generated a great deal of excitement among the students and schools that want to participate in the program, and it has generated a great deal of excitement in donors.

Ms. McNichols stated that if it were not for Martin Marquez, who takes great pride in destroying any opportunity the City has to do something good, different, innovative or exciting, the Foundation would not have to argue so strenuously for this project. She said that Mr. Marquez must be stopped, and Council has the ability to do this by approving this project. The USGA needs a commitment from the City that they will approve a land use agreement in order for them to release their donation of \$50,000.00. The George Batchelor Foundation is willing to donate \$290,000, and County Commissioner Rebeca Sosa has committed to \$10,000.00 for every year that she is in office.

Ms. McNichols urged Council to support the Children's Golf Foundation by voting to approve the land use agreement.

(Mayor Bain called for a 5-minute recess at 8:35 p.m.)

City Manager Borgmann recommended the removal of Agenda Item 10I, and rescheduling it for a future meeting.

Attorney Seiden added that he only received the information today, and he would not be in a position to advise Council.

Don Riedinger of 991 Hunting Lodge Drive stated that the issue is not about the children or the program. He said that he fully supports the program for the handicapped children on the existing Golf Course facilities, and that he is against the construction of the facility and the leasing of City property.

Mr. Riedinger was of the opinion that the Children's Golf Foundation should continue using the existing facility for the program. He requested that Council schedule a Workshop meeting before taking any action that would allow a lease for any part of the Golf Course, because it seems that the Children's Golf Foundation is looking to lease two pieces of property for the building and the golf course.

Mr. Riedinger said that in January he wrote a letter concerning what he believed was a conflict of interest with Dan Bradley making presentations to Council for this golf course. The City Attorney rendered his opinion that it is not a conflict of interest because Mr. Bradley is a contractor, not an employee of the City. He said that he disagrees with that opinion, and another issue is that five of the Children's Golf Foundation board members belong to City advisory boards.

Mr. Riedinger also objected to the Foundation paying the Golf Pro, the Administrative Secretary, and seven or eight additional people. He said that although the program is good, when it comes to the construction of the facility, he questions how much he can trust what everyone has been told in the past.

Mr. Riedinger stated that there was a consensus of the residents that did not want the project, and there was no consensus that it would be okay if the project were moved to another location.

Elaine Riedinger of 991 Hunting Lodge Drive stated that she and her husband purchased their property with the idea that it would stay the way it was, and that it would maintain its value, without a special 3-hole golf course and a building for recreational use and office rental. She said that not all the truth is coming out, and she found that Miami-Dade, Monroe, Broward, and Palm Beach Counties would use the facility. She added that there was no consent among the residents, and the residents were not even notified about the program.

Ms. Riedinger said that she supports Martin Marquez and agrees that the funds should be frozen because there is no approval to go forward from the voters of the City who own the property. She felt that the project would affect her home and the resale value of the property, and that this is not even being considered. She was concerned about the size of the proposed building, and the buses that bring the children to the facility, and felt that the children could use the existing Driving Range facility.

Dona Kelley of 830 Swan Avenue stated that it is wonderful to be able to do something for handicapped children; however, it seems that there has been no real supervision from Council or the Administration regarding the proposed project. She said that nothing should have been done without Council approval, and that the people who live around the Golf Course should be given consideration.

Donna Bray of 369 Azure Way said that Miami Springs is a community that is child friendly;

however in recent weeks it does not seem that it has been child friendly with regard to certain children. There is a lack of understanding and a tremendous amount of fear of the unknown. She said that she teaches the handicapped children at the High School, and when they go to the Golf Course they come back with joy in their faces.

Ms. Bray quoted laws that protect handicap children with disabilities. She said that the students have a community based instruction model, which means they go out into the community on a regular basis to learn how to assimilate, one of the things they learn to assimilate with is recreation, and the Golf Course would be a great means to do this. She urged Council to do the right thing.

Richard Hall of 1079 Hunting Lodge Drive stated that the Children's Golf Foundation program is misguided, and the Golf Course is beneficial to the community in that it provides needed green space. The property is a valuable asset that needs protection, and that is the reason the City purchased the Golf Course. He said that he lives with a few inconveniences due to the Golf Course Driving Range and banquet facility.

Mr. Hall said that now there are plans to construct a 2,000 square foot building to house a corporate office, family, guests, and visitors, which affects everyone. He expressed his concerns about traffic, construction activity, clutter, security, lights, parking, and regulations that could be imposed upon the program. Mr. Hall questioned why no other Golf Courses have a similar facility for the handicapped. He felt that this is an attempt to procure public property for corporate purposes, and that it would decrease land values.

Mr. Hall urged Council to turn down the proposal, and to find basic solutions to beautify and improve the Golf Course for the paying golfers and banquet facility.

Martin Marquez of 401 Hunting Lodge Drive was concerned with the lack of proper notification to the residents. He felt that every resident is entitled to know what is going on and to have input, which has not been done. Mr. Marquez felt that if Council were to approve a land use agreement with the Children's Golf Foundation that it could set a precedent.

Bob Schwinger of 630 Cardinal Street stated that Council should consider the entire plan for recreational facilities at the Golf Course so that the property can be fully utilized.

Former Councilwoman Helen Gannon of 219 Miami Springs Avenue said that the purchase of the Golf Course required a vote of the residents, and they were taxed. Now, plans are being made for the use of the property, and the residents are not being notified. She questioned why the Miami Springs Golf Foundation had been allowed to meet at the Golf Course for no charge since January.

Ms. Gannon said that she has watched Golf Course Manager Dan Bradley make endless promises and unlimited excuses to explain why he has not turned a profit. She added that this issue is not about the children.

Ms. Gannon said that she has a physically challenged daughter, but that the Golf Course should not be turned into a school or playground. She urged Council not to set a precedent by approving the

land use agreement with the Children's Golf Foundation. It is her opinion that the Golf Foundation has gone about this in an underhanded way.

Laura Martinez of 1015 Hunting Lodge Drive wanted people to realize that the project is located in the center of the Golf Course and the children would have to be transported across the driving range to the facility. She is concerned about the traffic and noise, and felt that the facility could be located elsewhere.

Aldo Saavedra of 529 Curtiss Parkway did not feel that the majority of the residents who have spoken feel the same as most of the residents. He said that he has children, he is blessed that they do not have disabilities, and that the issue at hand is discrimination because there are no issues about Golf Tournaments that draw 130 golfers. Mr. Saavedra urged Council to vote with their heart and to do the right thing.

City Manager James R. Borgmann referred to the City Council meeting of January 12, 2004, when Vice Mayor Caudle moved to direct the City Attorney to draft an agreement for Council approval and discussion. Councilman Pacheco seconded the motion, which carried unanimously on roll call vote. He said that no agreement was prepared based on the fact that there are concerns in the community that the Children's Golf Foundation is attempting to address.

Mr. Borgmann stated that the Foundation is proposing an alternate location and the City would have liked to have that location for a future recreation facility with a \$10MM price tag, which might not ever be possible. This idea could be pursued in the future, and Council could take additional action at that time. The City might receive \$1.5MM that could be used to repair the existing gymnasium.

City Attorney Seiden explained that there are too many open-ended questions, and that is why he has not prepared an agreement. He said that there are many issues, and one is that if a building is built, that it should be the property of the City of Miami Springs. He said that Council must make the decisions and provide direction on how to proceed.

Mayor Bain asked if the Foundation's letter to the USGA was misrepresented, and why they were withdrawing funding based on the letter sent by Martin Marquez.

Mindy McNichols stated that the Foundation was operating based on the item that was unanimously approved by Council in January to draft a land use agreement. She said that although Mr. Marquez said that there was no actual approval, they thought there was a commitment from the City for the program. There was no intent for anyone to be misleading, especially with all the negotiations and discussions with the USGA and the Batchelor Foundation that were based on approval of the land use agreement, according to Ms. McNichols.

Mayor Bain said that when he asked who was getting paid he was told that it was Donna Wood-Beney and the golf instructors, but obviously someone else is getting paid.

Tamara Thomas explained that in the original grant that was submitted to the USGA, the gentleman named Keith was identified as the person who is running the Children's Golf Foundation program in

West Palm Beach, and it was thought that Miami Springs would be an extension of that organization. She said that they realized that it would be better to incorporate on their own, and to hire Donna Wood-Beney as the Executive Director who has the ability to write grants.

Mayor Bain asked why the USGA was requesting a 15-year land use agreement, and if this was their idea, or if the Foundation had presented the idea to them in that respect.

Ms. Thomas said that the 15-year agreement was the suggestion of the USGA.

Ms. McNichols stated that the Foundation realizes that Council could only approve a certain number of years, and hopefully the USGA will accept it.

Vice Mayor Pacheco said that in fairness to the USGA, since they received a letter advising that a hotel and casino was going to be built on the property, they have the right to be concerned.

Mayor Bain said that the statement about a hotel and casino is obviously false, but the application says that the City of Miami Springs owns the land and has agreed to enter into a long-term agreement. He added that it stated that the center will be designed and built specifically for special needs children, including an 1,800 square foot recreation center, office complex, an 8,000 square foot deck overlooking the teaching area, practice tee, and putting green, picnic area, with a 3-hole golf course, practice tee encompassing approximately 5,000 feet, and will be located adjacent to a 3,000 foot putting green. He said that he attended the second meeting, and this was never presented to Council or the residents, and it raises questions.

Mayor Bain said that there has been an ongoing problem with the information that was presented to the community on Hunting Lodge Drive. He explained that he encouraged more meetings with the residents to get the program started.

Ms. Thomas explained that she is not a grant writer like Donna Wood-Beney, but her understanding is that when a grant is written, that it should include everything the organization dreams of doing. She said that Ms. Wood-Beney has updated the USGA as to the change in location, and that there will not be a fishing dock. In terms of meeting with the residents, she said that they did the best that they could, and they incorporated many of the residents' suggestions.

Vice Mayor Pacheco stated that he would not approve of the proposal to building anything behind the Club House, and he would like the City to keep the vision of moving the recreational facilities to the Golf Course in the future. He would not want to lose that space, and once the facility is there, it would be hard to eliminate it. Vice Mayor Pacheco said that no one knows if the County General Obligation Bond will pass, but if the City receives \$1.5MM for renovations, the State might also provide funding in the future.

Vice Mayor Pacheco added that he has received letters and feedback from many residents, and he is still not sure whether the problem is the building, the location, the 3-hole golf course, or the entire project. He understands the concerns of the surrounding residents that have lived there for many years, but when the City of Miami owned the property, they could have utilized the property. He

explained that if he lived there, that he would like to enjoy the green space as well.

Vice Mayor Pacheco said that the Foundation agreed to move the building, so he is not sure what the residents are really concerned about. He knows that change is always going to be a problem in the City, but there is a green area behind the homes that the golfers use, and the 3-hole Golf Course would not change anything.

Mayor Bain stated that there were approximately 29 residents present at the meeting on July 27th, and the majority did not want a building. He said that they approved of utilizing the existing Golf Course facility, or to have the 3-hole golf course behind the Club House.

Vice Mayor Pacheco added that none of the residents were against the program.

Councilman Elza said that everyone enjoys playing golf, and the ability to swing a club does not have anything to do with who can or cannot play at the Golf Course. He referred to the Curtiss Mansion renovation project that has not come to fruition after fourteen years, and said that the Children's Golf Foundation might not be successful if it follows in the same footsteps. He felt that the first step should be to develop a long-range plan for the non-playing areas of the Golf Course.

Councilman Elza said that the Children's Golf Foundation should utilize the perimeter of the Golf Course, and the City should not be committed to the use of the land in the center. He said that for now, he would not be opposed to continuing the program the same as they have done in the past. He explained that the kids could hit the ball, and use the practice green, because everyone has the right to swing the golf club.

Councilman Elza suggested that the 3-hole golf course could be developed on the East Drive property at Stafford Park, because the School Board owns the property, and it would benefit both the City and the School Board.

To answer Vice Mayor Pacheco's question, Ms. McNichols said that their goal has always been to have a 3-hole golf course, and the program began in order to see how much interest there was, and it turned out that there was so much interest that they held 29 sessions. She explained that professionals who assist them with their special needs accompany the children, and they need a building close by.

Councilman Caudle said that the real issue is whether or not Council wants to have a land use agreement, and if they do not approve a lease, the location of the 3-hole course and the building does not matter.

Councilman Youngs felt that the answer is simple, and in the spirit of the upcoming referendum, Council should not commit to a lease for longer than a term of five-years. He said that the Golf Foundation is asking for a non-exclusive use agreement, and when they are not using the property, the City could use it for other activities. He emphasized that it would be a non-exclusive use

agreement and that Council would set the terms.

Councilman Youngs stated that direction was given to the City Attorney to draft a use agreement, and Dan Bradley was granted approval, with the condition that he obtained funding, which he accomplished. He said that Council also requested that Mr. Bradley meet with the residents to address their concerns, and make changes, and the question is whether or not the City would agree to a non-exclusive use agreement.

Councilman Youngs said that whether it is called a lease, or a non-exclusive use agreement, it would be an agreement between the City and the Foundation to use the land, and in exchange, they are willing to make improvements and build a building that would have dual use. At the end of any lease, the building would become the property of the City, and Council would set the terms. He said that he is concerned about whether or not the City feels the program is a good idea that should be promoted.

Councilman Caudle emphasized that the Foundation cannot promote the program unless they have a land lease for five years.

Mayor Bain was of the opinion that the Foundation is in the position they are in because of the way that they presented the program in the grant applications. He said that they should have waited for Council's approval for the use of the land before requesting funding.

Councilman Elza reiterated his concerns about the Curtiss Mansion project and approving a five-year lease.

Councilman Youngs felt that Council must decide if they approve of the program and on what terms.

Mayor Bain stated that it was mentioned that Miami Springs does not like change, and if there is a fight to change something, he questions why it should be changed. He asked for a motion to allow the Children's Golf Foundation to hold their events at the Golf Course.

City Manager Borgmann stated that the events were already approved because there is no way the City can say no to any group that is willing to pay the full price for a bucket of balls, and by refusing to let them play, it would be discrimination, and the City would be subject to a lawsuit.

Councilman Elza reiterated that the City should first have a long-range plan for the Golf Course before making a decision.

Councilman Caudle said that the question is whether or not Council would be willing to give the Foundation a five-year land lease.

Councilman Youngs stated that he would vote to approve a five-year, non-exclusive use agreement.

Councilman Caudle said that he supports the Children's Golf Foundation program. He understands

that they are using the existing Driving Range, Putting Green, Chipping Green, and the kids leave smiling after having a good time. He suggested that the City could even donate the golf balls so there would be no expense involved. He said that at this point in the history of the Golf Course, he could not support a land lease regardless of the location.

Councilman Youngs mentioned that he used to live at 1019 Hunting Lodge Drive, and he enjoyed the vacant land behind his home on the Golf Course. He said that he understood that the land belonged to the City and the Golf Course, and that the residents should hope that the City would choose a use that is the least intrusive.

Councilman Youngs said that the residents are not saying that they are guaranteed that the land remains fallow, and that the City does not have the right to use it. He felt that they are saying that if the City is going to do something in that area that it should be consistent with the Golf Course use, and if there is a better location, the City should choose the better location, and not encroach upon the area behind their homes. He said that the risk of using the center of the Golf Course for a 3-hole course, is that the City could put the new pool, gymnasium, tennis or racquetball facilities on the four-acre site behind the homes, and this would be more damaging.

Councilman Youngs said that from his standpoint, he would like to accommodate the residents if possible by relocating the 3-hole course, and it could be put in the middle. He felt that the Children's Golf Foundation Program would help the Golf Course gain public recognition in the County, which would be very valuable to the City.

Mayor Bain stated that the children from the High School were very happy with the program at the Golf Course the way it is now, and it is disconcerting how they want more, which degrades what has been accomplished. He said that he agrees with Councilman Caudle, and he is not ready to give up the property at this time.

Councilman Elza added that he could not support anything that deals with moving the facility to the middle of the Golf Course. He said that the program was successful, and the City should not give up the land to build a 2,000 square foot building for the Foundation.

Vice Mayor Pacheco was concerned that Council does not have enough information to approve a land use agreement. He said that in January, Council agreed to the program in concept, and there is no doubt that it would bring publicity to the County Club, but Council should have some parameters to follow.

Vice Mayor Pacheco said that the City Attorney wants some direction from Council, and Council needs direction from the Foundation. He explained that it is not clear what the Foundation is asking for because on paper it says fifteen-years, and now the Foundation President is saying five years is okay.

Councilman Youngs suggested a non-exclusive use agreement, for no more than five years,

describing the terms, listing what the Foundation is proposing to do in exchange for the non-exclusive use agreement, and setting the location. He added that the remaining question is with regard to the building, and whether or not the building is necessary, what would be the size, and the details about dual use.

Attorney Seiden said that there is no reason for him to sit down with a blank piece of paper and try to create an agreement, and even after the discussion tonight, he could not create the document. The City needs to get a concrete proposal from the Foundation as to where, when, how, and why. It does not have to be in the form of an agreement and it can be a listing of bullet points.

Vice Mayor Pacheco moved to table the item and Councilman Caudle seconded the motion. On roll call vote the motion carried unanimously.

Councilman Youngs said that Council supported this project before, and it would be good for the City if the details can be worked out among the concerned residents, the Administration, and the Foundation.

9J) Ordinance – First Reading – An Ordinance of the City Council of the City of Miami Springs Providing Five (5) Charter Amendments for Submission to the Electors of the City at a Special Charter Election to be Conducted on November 2, 2004; Repealing all Ordinances or Parts of Ordinances in Conflict; Establishing an Effective Date

City Attorney Jan K. Seiden read the ordinance by title.

City Attorney Seiden stated that originally the resolution calling for the Special Election was set in this part of the agenda; however, the Charter Amendment provisions, although citizen generated, were not technically done by petition, which is required by Florida Statute 166.031, and the alternative is for the City Council to adopt an ordinance. The second reading of this ordinance will take place at the August 23, 2004 meeting, followed by the resolution calling for the Special Election in November.

Bill Tallman of 901 Falcon Avenue stated that he felt the cost of the proposal outweighs the benefits. He asked Council to defer consideration of the ordinance at this time.

Mr. Tallman was of the opinion that the City Council should have the power to deal with the important decisions that affect the future of the community for four key reasons. The first is quality of information because the City Council is the most informed body prior to making a decision. The second reason is accountability because if Council makes a poor choice, those in error can be removed from office. He said that if a bad decision is made in a referendum, everyone is accountable, and by extension no one.

Mr. Tallman felt that the third reason is adaptability, because if Council passes an ordinance, and new information comes to light, they can revisit that ordinance and adapt for the greater benefit of the community.

The fourth point raised by Mr. Tallman was the cost of referenda. He said that the September 18, 2003 bond referendum to revisit the bond issue on the golf course cost the City \$9,849.07. He questioned who would pay for these votes.

Mr. Tallman felt that the financial cost of a referendum might weigh on the minds of Council when they consider proposals, and stifle creative ideas that are not perceived as likely to pass a vote. He said that there is no reason for Council to advance these amendments at this time because the Charter already provides for a petitioning process in Article 6, Section 6.06 that has not been followed, although the process was started and a petition was submitted with 405 signatures.

Mr. Tallman stated that the Charter requires a petition amendment to contain 15% of the registered voters, and out of 7,000 registered voters, 1,050 signatures would be required. So with 405 signatures in ten weeks, this group came forward and presented themselves as representing the people of Miami Springs. The passionate group that lobbied these Charter Amendments did not speak for him or the other Miami Springs residents that want a Council to run the City and not government by referendum.

Mr. Tallman said that if these proposed Charter Amendments truly represent the will of the people, then it is not unreasonable to ask the advocates to obtain 15% of the electorates' signature before the City spends \$10,000.00 on a referendum to make such dramatic changes to the government. He said that Council was elected because the electorate felt that they could do a better job than anyone else.

Mr. Tallman said that the petition falls short by a little over 600 signatures, and perhaps when the referendum was discussed not all the ramifications were fully evident, and with the passage of time and research, it is now known that there are other costs associated with this initiative.

Mr. Tallman said that Council has the luxury to revisit the question with less emotion and more intellect, and they can defer action on the proposed ordinance until presented with a bona-fide citizens' initiative. He urged Council not to relinquish the responsibility of making these decisions.

Aldo Saavedra of 529 Curtiss stated that he believes the Charter Amendments should not be passed on to the voters, and that Council should have the power to make the decisions.

Bob Schwinger of 630 Cardinal Street said that he agreed with Bill Tallman 100%, and that Council was elected to make the hard decisions.

Mayor Bain asked the City Attorney to read the Golf Course amendment so that it is clear.

The City Attorney read the following:

"No portion of the Miami Springs Golf and Country Club property, which is more particularly described in official records book 17843, pages 4410 – 4415, of the Miami Dade County Public Records, shall be re-zoned, sold, otherwise conveyed, or

leased for any single period in excess of five (5) years without first being approved and authorized by a majority of the qualified City electors voting in an election to consider any such actions.”

Per the Mayor’s request, Council agreed that City Attorney Seiden should redraft the language to say:

“No portion of the Miami Springs Golf and Country Club property, which is more particularly described in official records book 17843, pages 4410 – 4415, of the Miami Dade County Public Records, shall be leased for any single period in excess of five (5) years, re-zoned, sold, otherwise conveyed, without first being approved and authorized by a majority of the qualified City electors voting in an election to consider any such actions.”

Councilman Elza moved to approve the ordinance as amended and Councilman Youngs seconded it.

To answer Councilman Youngs’ question, Attorney Seiden clarified that he added the proposed amendment to the Charter Section 3.06 (5), regarding the date of the run-off election, because the County has advised that because of the change in the voting process, that they can no longer guarantee that they can conduct a run-off in two weeks, and they will set the time. The current Charter provision stated two weeks, and this provision would allow the County to specify the time between the general and run-off election.

Councilman Youngs was of the opinion that the Charter provision should not be left open-ended. He would rather specify a time limit.

Vice Mayor Pacheco asked what would happen if the voters turn the run-off election amendment down.

Attorney Seiden stated that the City would have to file a Declaratory Judgment lawsuit to determine what the rights would be.

Council agreed that the provision should be amended to say “up to four weeks”.

On roll call vote, the motion carried 3-2 with Councilman Caudle and Councilman Elza casting the dissenting votes.

9K) Ordinance – First Reading – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150.071, B-2 Central Business District, By Enacting in Substitution Thereof, New Code of Ordinance Section 150-071, NBD – Neighborhood Business District; Specifying Purpose; Providing Allowed Used and Parking Requirements for Each Use; Delineating Prohibited Uses; Specifying Signage Requirements; Establishing Building Height Limits, Building Site Area Requirements, Floor Area

Limitations, Square Footage Requirements, Front Yard Specifications, Side Yard Requirements, Rear Yard Requirements and Protective Screening Requirements; Providing for Landscaping and Site Plan Approval; Delineating an Off-Street Parking Exception Provision, Repealing All Ordinances or Parts of Ordinances in Conflict; Providing Directions to Codifiers, Establishing an Effective Date

(Councilman Caudle left at 10:40 p.m.)

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden stated that City Planner Richard Ventura prepared the draft for this district, which is being substituted for the B-2 Zoning District, based upon the Neighborhood Business District (NBD) created in the Comprehensive Plan of 1998. He referred to Ordinance No. 849-98, which outlines the processes, hearings, citizen input and other processes that were followed between 1996 and 1998 in regard to the EAR evaluation plan, and the de novo plan was adopted, which was approved by the State of Florida Department of Community Affairs, and the City Council.

Attorney Seiden clarified that this is not a re-zoning, and the City Charter provision regarding re-zoning is not applicable. He explained that the law was enacted in 1998, and this is only an implementation of what was approved and made Law of the Land.

The City Attorney said that the intent of the Planner and the Consultant was provided in prior documents, and despite comments to the contrary, this is not a multi-family district, and it is a business district. It is very similar to the B-2 Zoning District, and has very few changes.

Attorney Seiden stated that the former B-2 Zoning District provided for an allowed upper level, residential development on top of business properties. The density change was in the plan in 1980, and Council can change the density or modify the ordinance as proposed, including the business to residential percentage, which is not a change in the floor area ratio (FAR).

Attorney Seiden stated that Council should probably add the following language as further explanative provisions in Section (A) Purpose:

“In this district, offices, businesses and other commercial uses must be maintained on the ground floor, and may occupy all floors of any structure; however, any residential component of all new structures in this district can only be located on floors above the ground floor level.”

Attorney Seiden said that by enacting this ordinance, and by repealing the B-2 Zoning District, the Code had previously been designed as a pyramidal structure, and insofar as this district is concerned, this is a stand alone structure for zoning, as will be the B-1 Zoning District when it is addressed, and the NBD will not relate back to B-1 or any other uses.

Attorney Seiden stated that in order to inform the public, the ordinance is scheduled for two public hearings and it has been duly advertised in three publications with a map showing the NBD district

areas.

Buzz Fleischman of 810 Pinecrest Drive said that high-density apartment buildings would not be acceptable to him or any of the residents. He would like more information from Council as to whether or not they are in favor or opposed to high density.

Irene Priess of 449 Swallow Drive stated that she lives adjacent to the B-2 Business District, and she is satisfied with the proposed ordinance.

Donna Hernandez of 769 Pinecrest Drive asked the City Attorney if the ordinance allows the change in density.

Attorney Seiden stated that within the framework of the ordinance, one provision deals with the proportionate usage of a development on a particular piece of property, which is under Section H. The proposed language provides that the ground floor level in a mixed-use project must be 100% business. The ratio of residential to business is now proposed at 67% residential to 33% commercial.

Ms. Hernandez expressed her reasons for concern about increased density.

Attorney Seiden explained that the proposed ordinance does not affect density for this area because the floor area ratio (FAR) is 1.0, and nothing can be done to change the density without an amendment to the Comprehensive Land Use Plan.

Owen Gay of 81 Morningside said that he objects to the first reading of the ordinance on the grounds that Council would be in violation of the City Charter Section, which states that notice of proposed zoning changes should be mailed to the electors of the City. He felt that the proposed ordinance constitutes a zoning change and that it could provide for more than 40 multi-family units per acre in the Neighborhood Business District and the existing the Zoning Code provides 20 units per acre. Mr. Gay further discussed his opposition to the proposed ordinance, which he alleged would increase density.

(Councilman Elza left at 11:05 p.m.)

Martin Marquez of 401 Hunting Lodge Drive stated that under the current Code, in the existing districts, the maximum allowed units are twenty per acre, which is 120 units, and under the proposed ordinance it would increase to 275 based on total land area, which is a substantial increase. He asked Council to adjust the variables to bring it down closer to 20 units per acre maximum.

Bob Schwinger of 8 Canal Street stated that Mr. Marquez and Mr. Gay both alluded to preposterous numbers, which are not included in the Comprehensive Land Use Plan. He said that the number of units in relation to the parking requirements will mandate the size of the building, and it cannot exceed the 1.0 FAR. Mr. Schwinger further expressed his support for the proposed ordinance.

Architect Peter Leenman of 169 Palmetto Drive said that an average lot is approximately 26,000 square feet, and the FAR of 1.0 means one could build 26,000 square feet of floor area ratio on three-stories. A third of that, including the area for stairs, an elevator, circulation, and mechanical space is approximately 10%, which leaves approximately 8,000 square feet per floor, and since the first floor is commercial, it leaves 16,000 square feet for residential. He explained that the average residential size for a 2-bedroom unit is 1,000 square feet, and this would mean 14 to 16 units. Considering the parking requirements, it would reduce the number to 12 to 14 units, because two parking spaces are required per unit.

Vice Mayor Pacheco stated that he had asked to exclude motor scooters, motorcycle sales and service shops, and Council agreed.

Mayor Bain said that he reviewed the goals set forth in the Future Land Use Element of the Comprehensive Land Use Plan, and it provides that Miami Springs should be a residential community, which offers the best possible residential environment consistent with its location and developing history. The development policy should protect residential character, and Miami Springs should also contain retail sales, services, etc.

Further discussion ensued regarding the possible number of units per acre for the development proposed by Mr. Leenman.

Mayor Bain was of the opinion that either the percentage or square footage should be adjusted in order to reduce the number of units per acre.

Mr. Leenman reminded Council that the parking requirements would reduce the number of units.

Vice Mayor Pacheco agreed with Mayor Bain that the minimum square footage per unit should be adjusted from 600 to 900 square feet. He added that this would reduce the number of units, and the larger units would be more upscale with higher rents.

Councilman Youngs suggested that the minimum square feet could be 900 square feet, regardless of how many bedrooms.

Vice Mayor Pacheco was of the opinion that the number of bedrooms should be a consideration.

Mr. Leenman pointed out that the Florida Building Code regulates the minimum room size, and that 900 square feet would control the density.

Mayor Bain said that he would like to verify the facts about the Building Code.

City Planner Ventura stated that he would have to check with the Building Official to verify the minimum number of square footage per room.

Vice Mayor Pacheco moved to approve the ordinance as amended on first reading. Councilman Youngs seconded the motion, which carried 3-0 on roll call vote.

(Mayor Bain recessed for 5-minute break)

9L) Approval of Final Consultant's Bill (Holly Hugdahl) in the Amount of \$18,000.00

City Manager Borgmann stated that this is a recommendation for Council approval of a final bill for the Hugdahl Group in the amount of \$18,000.00.

Holly Hugdahl said that on May 3, 2004, her company was hired to analyze the City's financial status and why the City is in a technical state of financial emergency. They also addressed the issue of the prior year audit findings, and the focus was to work closely with the Finance Director.

Ms. Hugdahl stated that there is a big difference between an audit and what her group does. An audit is a review of the records to make sure that the statements are not materially misstated, and it does not find the underlying issues. They identified those areas that could be changed immediately to reduce future losses, and the Golf Course was the biggest issue. She said they also looked at all the services that were redundant, including telephone, beeper, cell phones, and they estimate that this will save the City approximately \$50,000 per year.

Ms. Hugdahl explained that they worked to prepare the budget work papers, identified the revenues and looked at the fees for services. They also prepared a policies and procedures manual. Another result of the work will be reduced future audit costs. Looking at the present, they analyzed the current general ledger account balances, and identified the account balances that were not being carried in the proper amounts.

Ms. Hugdahl informed Council that the Le Jeune Road Flyover utility relocation cost was reduced by approximately \$500,000, the Workers Compensation bill was reduced by \$300,000, and there was a reduction in the compensated absences payable of about \$400,000 due to GASB restatements.

Looking at the past, Ms. Hugdahl said that there were two years of qualified single audits. They reviewed the grant paperwork and placed it into files, and they reviewed the period from 1996 to the present to determine revenues received versus which fund paid the expenses. They will make prior period adjustments to the General Fund Surplus totaling approximately \$930,000.00. One of the biggest adjustments was the Law Enforcement Trust Fund for the Police Department, which will not be final until everything is verified, and then they will file amended state and federal reports.

Vice Mayor Pacheco asked if by making these adjustments, if everything is in place to continue

carrying out the procedures in the proper way.

Ms. Hugdahl responded that the policies and procedures manual was prepared to make sure that the City continues to operate properly. She added that more than \$2MM in adjustments will lead to an improved financial condition of the community, and the City is prepared for the budget and the fiscal year audit.

Ms. Hugdahl said that she had two staff members, and one is being hired to work for the City in the Finance Department.

To answer Vice Mayor Pacheco's question, City Manager Borgmann confirmed that the total expense approved for the Hugdahl Group totals approximately \$103,000.00.

Vice Mayor Pacheco moved to approve the additional \$18,000. Councilman Youngs seconded the motion, which carried 3-0 on roll call vote.

City Manager Borgmann said that the work done by the Hugdahl Group was the reason that the City's proposed millage rate is the same as last year.

Dona Kelley of 830 Swan Avenue said that she was impressed by the report from the Hugdahl Group. She felt that the agenda lacks sufficient information because if Vice Mayor Pacheco had not questioned the total cost, it would have looked like the Hugdahl Group was only receiving \$18,000.00. She added that the agenda was not clear about the Charter Amendment questions either.

9M) Status Report on Interlocal Agreement with Virginia Gardens Regarding Sewer Accounts (Verbal)

City Manager Borgmann reported that the Virginia Gardens Council only meets once a month, they did not consider the matter during the July meeting, and now they are saying that it will be on the August agenda.

10. New Business:

10A) Appointment to the Code Enforcement Board by Mayor Bain to Fill an Unexpired Term Ending on September 30, 2004, Created by the Resignation of MacArthur Alexander

Mayor Bain **deferred** his appointment to the Code Enforcement Board.

10B) Notification and Discussion Regarding Proposed Renewal of the Health Insurance Coverage for the Fiscal Year 2004/2005 with Aetna

City Manager Borgmann stated that Aetna currently provides the City's health insurance coverage,

and the first letter that was received from them was a recommended increase of 14%. They were asked what could be done to reduce the increase below 10%, and they came back with a 9.8% recommendation.

Mr. Borgmann said that a 9.8% increase would total approximately \$68,000.00 more than was paid last year, and the actual expense to the City would be \$52,000.00 because the employees pick up a portion of the dependent coverage. When contacting other cities, it was determined that any increase less than 10% is almost unheard of in this business. They stated that this offer is being extended now; however, should the City decide to initiate the RFP bid process, Aetna reserves the right to withdraw the offer, re-evaluate the claims experience, and recalculate a more current proposal. He explained that the Administration has based the budget recommendations on the 14% cost increase, and the question is whether Council would waive the competitive bid process.

City Attorney Seiden interjected by saying that it would take four votes to waive the competitive bid process, and no official action could be taken at this meeting.

Mayor Bain said that he was concerned about this, but he knows that 9.8% is not a bad increase for health insurance.

Vice Mayor Pacheco said that last year he was concerned about Aetna because they came in very low, and that after one year they might increase the rates dramatically.

Mr. Borgmann said that upon second review of the current renewal by underwriting, Aetna has observed a more recent claims month in excess of 100%, resulting in a total of a 10-point increase to the overall loss ratio, and despite that factor they lowered the renewal offer to 9.8%. He said that the claims experience could hurt the City, and the 9.8% is a good rate increase.

The item was **deferred** to the August 23, 2004 agenda.

10C) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure of \$42,500.00 to Baljet Environmental and Civil Engineering for the Design of Roadway Improvements, Intersection Improvements, and Bus Stop Improvements at the Intersection of Westward Drive and Apache

Council **deferred** this item to the August 23, 2004 meeting due to a lack of four affirmative votes.

10D) Recommendation that Council Approve an Expenditure of \$23,331.00 to Post, Buckley, Schuh & Jernigan, Inc. (PBS&J) to Design the Supervisory Control and Data Acquisition System ("SCADA") for the City's Sewer System as Required by the Department of Environmental Resources Management (DERM)

City Manager Borgmann stated that this is a proper expense under the contract with Post, Buckley, Schuh & Jernigan, Inc. He explained that they have the most knowledge of the City's water and

sewer system, and the Administration is recommending approval. Funding is available in the Sewer Fund.

Councilman Youngs moved to approve, and Vice Mayor Pacheco seconded the motion. On roll call vote, the motion carried 3-0.

10E) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure of \$16,200.00 to Emtec Engineering to Design the Upgrades and Renovations for the City Hall Air Conditioning System

Council **deferred** this item to the August 23, 2004 meeting due to a lack of four affirmative votes.

10F) Recommendation that Council Approve an Expenditure of \$125,000.00 to the Low Bidder, Horsepower Electric to Replace Underground Streetlight Wiring and Other Streetlight Services

At the request of City Manager Borgmann, Council **deferred** this item to the August 23, 2004 meeting.

10G) Recommendation that Council Approve an Expenditure of \$22,776.00 to the Low Bidder, South Florida Maintenance Service, Inc., to Provide Street Sweeping Services for One Year

At the request of City Manager Borgmann, Council **deferred** this item to the August 23, 2004 meeting.

10H) Recommendation that Council Approve an Expenditure of \$16,083.80 to G & B Striping, Inc., to Perform Pavement Marking and Striping Services per Miami-Dade County Bid Project 629902 Resurfacing Contract No. 6

City Manager Borgmann read the title of the award.

Public Services Director Denise Yoezle stated that the entire City was surveyed to determine where the marking and striping work needed to be performed.

Vice Mayor Pacheco moved to approve. Councilman Youngs seconded the motion, which carried 3-0 on roll call vote.

10I) Request to Swap Certain Privately Owned Land for Public Land

This item was **deferred** to the August 23, 2004 Regular meeting.

11. Golf Course Items:

11A) Bond Refinancing Update

Council **deferred** the Golf Course items to the Workshop meeting of August 16, 2004.

11B) Review of July 2004 Financials

This item was **deferred** to the August 16, 2004 Workshop meeting.

11C) Review of the Food and Beverage Operation

This item was **deferred** to the August 16, 2004 Workshop meeting.

12. Other Business:

None.

Mayor Bain suggested that Council should receive minutes of the Advisory Boards as soon as they are prepared in order to allow Council more time to read them prior to the meetings.

City Clerk Magali Valls agreed to forward the draft copy of the minutes as soon as they are prepared.

13. Reports & Recommendations:

13A) City Attorney

None.

13B) City Manager

Workshop Meeting

City Manager James R. Borgmann stated that the agenda for the August 16, 2004 Workshop meeting would be distributed on Tuesday, August 10th. He asked Council to begin reviewing the tentative budgets that were distributed today, and to contact him with any questions.

13C) City Council

City Council

Mayor Bain announced that Councilman Caudle left early because he was not feeling well. He added that Councilman Elza did not explain his reason for leaving.

High School Reunion

Mayor Bain expressed his concern that Mr. Pereda's comments would not have been necessary had Mr. Borgmann informed the Council of his decision to host the reunion at the Country Club.

14. Adjourn.

There being no further business to be discussed the meeting was adjourned at 12:15 a.m.

Billy Bain
Mayor

ATTEST:

Magali Valls, CMC
City Clerk

Approved as written during meeting of: 9/13/2004

Transcription assistance provided by S. Hitafer

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.